

# Notice of Allowability

Application No.

09/240,675

Examiner

S. Devi, Ph.D.

Applicant(s)

BENOIT ET AL.

Art Unit

1645

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to after-final amendment filed 11/21/03.
2. ☒ The allowed claim(s) ~~is/are~~ 23, 25, 26, 29 and 30, now renumbered as claims 1, 2, 3, 4 and 5 respectively.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☒ Certified copies of the priority documents have been received in Application No. 08/307,588.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____.   |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____  | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment         |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9 <input type="checkbox"/> Other _____                                     |

Serial No: 09/240,675  
Art Unit: 1645

## **ATTACHMENT TO NOTICE OF ALLOWABILITY**

### **Applicants' Amendment**

- 1) Acknowledgment is made of Applicants' after-final amendment filed 11/21/03 in response to the final rejection mailed 07/16/03, which has been entered.

### **Examiner's Amendment**

- 2) An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 C.F.R 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. The authorization for this Examiner's amendment was provided by Ms. Gurjeev Sachdeva in a telephone interview on 04 December 2003:

This application has been amended as indicated below:

The trademark recitation 'Tween 20' in part c) and part d) of page 19 of the specification is replaced with the recitation --TWEEN 20--.

### **Status of Claims**

- 3) Claims 29 and 30 are amended via the amendment filed 08/01/02.  
Claims 23, 25, 26, 29 and 30 are pending and under examination.

### **Objection(s) Withdrawn**

- 4) The objection to the specification made in paragraph 5 of the Office Action mailed 07/16/03 is withdrawn in light of Applicants' arguments and/or amendments.

### **Rejection(s) Withdrawn**

- 5) The rejection of claims 29 and 30 made in paragraph 13 of the Office Action mailed 07/16/03 under 35 U.S.C § 102(e) as being anticipated by Mogensen *et al.* (US 5,889,151) is withdrawn in light of Applicants' amendments to the claims.

### **Remarks**

- 6) Claims 23, 25, 26, 29 and 30, now renumbered as claims 1, 2, 3, 4 and 5 respectively are allowed.
- 7) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center located in Crystal Mall 1 (CM1). The transmission of such papers by facsimile must conform with the notice published in the Official

Serial No: 09/240,675

Art Unit: 1645

Gazette, 1096 OG 30, November 15, 1989. The CM1 facsimile center receives papers 24 hours a day, seven days a week. The RightFax number for submission of before-final amendments is (703) 872-9306. The RightFax number for submission of after-final amendments is (703) 872-9307.

8) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (703) 308-9347. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.45 a.m to 4.15 p.m. except one day each bi-week which would be disclosed on the Examiner's voice mail system

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (703) 308-3909.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

December, 2003

  
S. DEVI, PH.D.  
PRIMARY EXAMINER